



U.S. Department of the Interior  
Office of Inspector General

# **AUDIT REPORT**

## **CONCESSIONS MANAGED BY THE BUREAU OF RECLAMATION**

**REPORT NO. 00-I-376  
MAY 2000**



## **EXECUTIVE SUMMARY**

**Concessions Managed by the  
Bureau of Reclamation  
Report No. 00-I-376  
May 2000**

### **BACKGROUND**

The Bureau of Reclamation (BOR) is responsible for overseeing or managing 310 recreation areas established on BOR project lands that are visited each year by about 90 million people for camping, swimming, boating, picnicking, and other recreational activities. The Congress has enacted legislation that requires BOR to "ensure the protection, comfort, and well-being of the public (including the protection of public safety) with respect to the use of Reclamation lands" and "ensure the protection of resource values."

Historically, BOR sought Federal partners such as the National Park Service and non-Federal partners such as state and local governments to develop, operate, and maintain recreational sites and facilities for the visiting public. In 1998, approximately 218 concessions provided commercial services and facilities for the public on BOR project lands, consisting of 110 concessions operated by Federal partners, 87 concessions operated by non-Federal partners, and 21 concessions managed directly by BOR.

Prior to 1995, BOR-managed concessions were not covered by BOR-wide policies, standards, and directives. However, in 1995, BOR issued interim guidance for concessions management and, in 1998, formally issued policies and standards and directives to guide BOR officials in planning, developing, and managing concessions operations.

### **OBJECTIVE**

The objective of our audit was to determine whether BOR had adequate policies and procedures for managing its concessions operations and protecting the public with respect to its use of public lands. In addition, at BOR's request, we evaluated BOR's 21 concession contracts to determine whether the provisions in these contracts met BOR's newly adopted policies, directives, and standards and to provide recommendations to improve BOR's administration of current and future concession contracts.

### **RESULTS IN BRIEF**

Overall, we concluded that BOR's newly adopted concession policies, directives, and standards will provide an adequate framework, when fully implemented, for managing its concessions operations and protecting the public with respect to its use of public lands. However, BOR had not effectively managed its existing concessions operations, primarily at

the Canyon Ferry Reservoir and at Lake Berryessa, because of inadequate contract provisions, mainly in the areas of contract default and operation and maintenance plans, and because it had not enforced existing contract provisions in the areas of building improvements, health and safety inspections, and prices charged the public. Although BOR has acknowledged that concessions management is a priority, it has not developed procedures to fully implement the new policies, directives, and standards or taken sufficient actions or allocated sufficient resources to address known deficiencies in its concessions operations. As a result, long-standing health and safety deficiencies have not been corrected, and BOR land and water resources have been degraded. Furthermore, we concluded that BOR will continue to be hampered in its efforts to manage its concessions effectively because all of BOR's 21 concession contracts did not have one or more of the key provisions required by BOR's new policies, directives, and standards for concessions management.

## **RECOMMENDATION**

We recommend that the Commissioner, BOR, establish and implement an oversight process to ensure that concessioners comply with existing contract provisions; complete and issue detailed guidance and procedures to fully implement the new policies, directives, and standards; develop a formal action plan to assess and correct the health and safety deficiencies and degradation of land and water resources within the concessioners' areas of operations at the Canyon Ferry Reservoir and Lake Berryessa; establish a review process to ensure that all new concessions and newly issued and reissued contracts are in compliance with BOR's policies, directives, and standards; develop a formal action plan to bring BOR-managed contracts into compliance with BOR's new policies, directives, and standards; and obtain a Solicitor's opinion on whether the concessioners at Lake Berryessa have the legal authority to charge entrance fees for entering the concession area and whether the fees collected are due the Government. Based on the opinion, actions should be taken as appropriate.

## **AUDITEE COMMENTS AND OIG EVALUATION**

BOR agreed with the report's six recommendations. Based on the response, we considered one recommendation resolved and implemented and five recommendations resolved but not implemented.

May 8, 2000

## AUDIT REPORT

### Memorandum

To: Assistant Secretary for Water and Science

From: Roger La Rouché /s/  
Acting Assistant Inspector General for Audits

Subject: Audit Report on Concessions Managed by the Bureau of Reclamation  
(No. 00-I-376)

## INTRODUCTION

This report presents the results of our audit of concessions managed directly by the Bureau of Reclamation (BOR), which was conducted in response to a request from BOR. The objective of our audit was to determine whether BOR had adequate policies and procedures for managing its concessions operations and protecting the public with respect to its use of public lands. In addition, at BOR's request, we evaluated BOR's 21 concession contracts to determine whether the provisions in these contracts met BOR's newly adopted policies, directives, and standards and to provide recommendations to improve BOR's administration of current and future concession contracts.

## BACKGROUND

BOR is responsible for overseeing or managing about 310 recreation areas established on BOR project lands. These areas are visited each year by about 90 million people for camping, swimming, boating, picnicking, and other recreational activities. In 1992, the Congress enacted the Reclamation Recreation Management Act (Public Law 102-575), which requires BOR to "ensure the protection, comfort, and well-being of the public (including the protection of public safety) with respect to the use of Reclamation lands" and "ensure the protection of resource values." The Omnibus Parks and Public Land Management Act of 1996 (Public Law 104-333) also emphasized the need for water-based recreation and established a commission appointed by the President to review the demand for recreation at Federally constructed lakes and reservoirs. In addition, BOR identified recreation management as a significant issue in its Strategic Plan for 1997-2002.

Historically, when completing water projects, BOR has sought Federal partners such as the National Park Service and non-Federal partners such as state and local governments to develop, operate, and maintain recreational sites and facilities for the visiting public. These partners would then provide commercial services such as restaurants, boat ramps, docks, and fuel stations by contracting with concessioners. Under these concession arrangements, BOR's

role is limited to monitoring the activities of its partners and, in certain instances, to approving third-party contracts.

In 1998, approximately 218 concessions provided commercial services and facilities for the public on BOR project lands. Of the 218 concessions, 110 were operated by Federal partners, 87 were operated by non-Federal partners, and 21 were managed directly by BOR. For the 21 concessions managed directly by BOR, 15 contracts were developed by BOR personnel, and 6 contracts were developed by non-Federal partners.<sup>1</sup> The length of the term for the contracts ranged from 1 year to 50 years (see Appendix 3).

Prior to 1995, BOR-managed concessions were not covered by BOR-wide policies, standards, and directives. An April 1992 report entitled "Report of the Concessions Management Task Force Regarding Commercial Recreational Activities on Federal Land," prepared by an interagency task force for the Secretary of the Interior, contained 21 recommendations for improving management over concessions and other recreational activities on Federal lands. In a January 13, 1993, memorandum, the Secretary directed BOR to implement the 21 recommendations. As a result, in 1995, BOR issued interim guidance for concessions management and, in 1998, formally issued policies (LND P02) and standards and directives (LND 04-01) to guide BOR officials in planning, developing, and managing concessions operations.

## SCOPE OF AUDIT

Our review was completed in October 1999 and included BOR's and concessioners' activities occurring from fiscal years 1994 through 1999 for the 21 BOR-managed concessions, which are located in Arizona, California, Idaho, Montana, Nevada, North Dakota, Oregon, and Utah.

Our audit was made, as applicable, in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. To accomplish our objective, we reviewed (1) relevant laws, legislative histories, and legal opinions to obtain an understanding of the basis for BOR's past and current practices with regard to concessioners' activities; (2) correspondence and other documents maintained at BOR offices to identify key actions and decisions of BOR officials concerning the award of concession contracts and the management and oversight of BOR concessioners; (3) BOR's April 1998 policies (LND P02) and directives and standards (LND 04-01); and (4) the contracts for the 21 BOR-managed concessions to determine whether the provisions in these contracts met the intent of BOR's newly adopted policies, directives, and standards. We also interviewed BOR officials and employees at the Great Plains, Pacific Northwest, Lower Colorado, Upper Colorado, and Mid-Pacific Regional Offices; BOR area and field offices; and BOR's Office of Policy in Lakewood, Colorado. BOR and concessioner locations that we visited or contacted are in Appendix 1.

---

<sup>1</sup>The six concessions were initially managed by non-Federal partners but were subsequently transferred to BOR.

As part of our audit, we evaluated BOR's system of internal controls related to overseeing and managing concession contracts to the extent we considered necessary to accomplish our audit objective. We found weaknesses in BOR's approval of concessioner building improvements, public health and safety inspections, and oversight of prices charged the public. These weaknesses and the recommended corrective actions are discussed in the Results of Audit section of this report. We also reviewed the Departmental Reports on Accountability for fiscal years 1997 and 1998, which included information required by the Federal Managers' Financial Integrity Act of 1982, and BOR's annual assurance statements on management controls for fiscal years 1997 and 1998 and determined that no material weaknesses were reported which directly related to the objective and scope of our audit.

## **PRIOR AUDIT COVERAGE**

During the past 5 years, the General Accounting Office has not issued any audit reports on BOR's concessions management practices. However, the Office of Inspector General has issued three reports related to concessions activities within BOR as follows:

- The report "Proposed Contract No. 8-07-30-L0470 With DynaSim for the Design, Installation, and Operation of a Water Education Theater at Hoover Dam, Bureau of Reclamation" (No. 99-I-308), issued in March 1999, stated that BOR's Lower Colorado Region did not plan and develop the proposed concession contract for a water education theater in compliance with BOR's concession policies, directives, and standards. BOR concurred with our two recommendations and terminated negotiations with DynaSim and agreed to ensure that all subsequent actions to acquire additional customer services at Hoover Dam would be in compliance with BOR's concession policies, directives, and standards.

- The report "Selected Concessioner Fees, Mid-Pacific Region, Bureau of Reclamation" (No. 95-I-1364), issued in September 1995, stated that five of the six concessions operations reviewed at Lake Berryessa, California, owed additional fees of \$10,389. The report also stated that we were unable to determine whether gross receipts and exemptions reported by the remaining concessioner were computed in accordance with contract terms because of the lack of internal controls over revenues and inadequate record retention. The report did not contain any recommendations because BOR took action to collect the additional fees due.

- The report "Recreation Management Activities at Selected Sites, Bureau of Reclamation" (No. 95-I-870), issued in May 1995, stated that BOR had limited success in its attempts to eliminate or reduce private, exclusive use of the recreation lands for long-term mobile home sites. BOR policy required that BOR lands be managed to benefit as many people as possible, and BOR and Departmental policies required that the private, exclusive use of public lands be phased out when the lands are needed for public recreational use. In addition, these policies allowed the permittees to invest in dwellings and associated improvements because BOR had not established definitive guidelines for determining when BOR lands were needed for public use and for amortizing investments made on BOR lands. BOR agreed with the report's three recommendations, which were to (1) extend the application of BOR policies for long-term recreation management to all state and local government entities, (2) establish guidelines for determining when recreation lands used for private long-term sites are needed for public use, and (3) establish a system of amortization for the private improvements on BOR lands. According to information provided by BOR, Recommendations 1 and 2 were

considered resolved but not implemented, and Recommendation 3 was considered resolved and implemented.

## RESULTS OF AUDIT

Overall, we concluded that BOR's newly adopted concession policies, directives, and standards will provide an adequate framework, when fully implemented, for managing its concessions operations and protecting the public with respect to its use of public lands. However, BOR had not effectively managed its existing concessions operations, primarily at the Canyon Ferry Reservoir and at Lake Berryessa, because of inadequate contract provisions, mainly in the areas of contract default and operation and maintenance plans, and because it had not enforced existing contract provisions in the areas of building improvements, health and safety inspections, and prices charged the public. According to BOR's 1998 Annual Report, its mission is to "manage, develop and protect water and related resources in an environmentally and economically sound manner in the interest of the American public." Also, in enacting the Reclamation Recreation Management Act of 1992, the Congress requires BOR to ensure that land and water resources are protected while it carries out its recreation responsibilities. Although BOR has acknowledged that concessions management is a priority, it has not developed procedures to fully implement the new policies, directives, and standards or taken sufficient actions or allocated sufficient resources to address known deficiencies in its concessions operations. As a result, long-standing health and safety deficiencies have not been corrected, and BOR land and water resources have been degraded. Furthermore, we concluded that BOR will continue to be hampered in its efforts to manage its concessions effectively because all of BOR's 21 concession contracts did not have one or more of the key provisions required by BOR's new policies, directives, and standards for concessions management (see Appendix 2).

### Inadequate Contract Provisions

We found that all of BOR's 21 concession contracts did not have one or more of 10 key provisions for effective contract management in the areas of contractor default, operation and maintenance plans, building improvements, title to fixed assets, franchise fees, exclusive use, prices charged for services, safety program, record keeping, and operations review and evaluation (see section "Evaluation of Contract Provisions" and Appendix 2). Although the contracts had been developed before the issuance of BOR's new policies, directives, and standards, we believe that the 10 provisions are essential for managing concessions operations in accordance with sound business practices and ensuring that the interests of the public and the Government are adequately protected. We found that the lack of adequate contract provisions hindered BOR personnel from taking corrective actions against improper concession practices and from adequately overseeing the operation and maintenance actions performed by concessioners.

**Contractor Default.** We found that all 21 concession contracts contained termination clauses but did not have contract provisions to require surety bonds and to collect penalties and administrative charges for concessioner nonperformance. BOR could remedy concessioner nonperformance only by issuing letters of default and then taking expensive legal and administrative steps to terminate the contract. In addition, provisions addressing



termination were inconsistent, including three contracts that allowed the concessioner 1 year to correct health and safety problems and seven contracts that did not specify a time frame for remedying performance problems, even when the problems were identified by BOR personnel. For example, we noted that a concessioner at Lake Berryessa which had been cited for significant health and safety deficiencies related to a deficient sewer system was allowed 1 year to correct the deficiencies before BOR could take action to terminate the contract. BOR records indicated that during this time, the deficient sewer system continued to degrade the land and water resources at Lake Berryessa by allowing raw sewage to flow untreated into the Lake. We believe that had this contract specified a shorter time frame for correction, BOR may have been able to limit the degradation of its land and water resources.

**Operation and Maintenance Plans.** We found that none of the 21 concession contracts required annual operation and maintenance plans. A concessions operation plan specifies the responsibilities of the concessioner, such as the types of facilities needed to provide goods and services requested by the public users. In addition, an operation plan should clearly identify the lands assigned to the concessioner, including the boundaries for long-term mobile homes placed on Government land. A maintenance plan specifies how the facilities and Government lands are to be maintained and delineates the maintenance responsibilities between the concessioner and BOR personnel. We found that the lack of operation and maintenance plans or incomplete plans hindered BOR personnel from effectively managing concessions operations. For example, at the Mid-Pacific Region's Lake Berryessa Resource Office, BOR personnel had difficulty resolving boundary disputes between mobile home owners because boundary lines were not adequately documented in an operation plan. In addition, we noted that BOR personnel at the Great Plains Region and the Montana Area Office were not aware of all the facilities that had been constructed by concessioners at the three concessions on the Canyon Ferry Reservoir. As such, BOR could not ensure that needed maintenance was performed.

## **Enforcement of Contract Provisions**

BOR did not adequately enforce existing contract provisions in the areas of building improvements, health and safety inspections, and prices charged for services at its concessions operations, primarily at the Canyon Ferry Reservoir in western Montana and at Lake Berryessa in northern California.

**Building Improvements.** We found that all 21 contracts had general provisions requiring BOR to approve all building improvements made to concession facilities and grounds, such as new buildings, room additions to mobile homes, boat docks, toilets, and sea walls. According to BOR officials, the approvals were necessary to ensure that improvements were in compliance with all Federal, state, and local building requirements and that the improvements did not adversely affect land and water resources and the visiting public. We found, however, that BOR personnel had not generally enforced existing contract provisions related to building improvements as follows:

- At the Great Plains Region, we found 43 mobile homes at Goose Bay Marina and Kim's Marina on the Canyon Ferry Reservoir near Helena, Montana, that had significant improvements made that were unauthorized. In addition, during a visit to the Yacht Basin Marina, we observed that the concessioner was beginning the process of installing

above-ground fuel tanks. Regional and Montana Area Office personnel who accompanied us during the visit told us that they were unaware of this planned installation of the fuel tanks, and we were unable to locate any documentation indicating that the concessioner had submitted plans or had received BOR approval for the installation of the tanks, as required by the contract.

- The Mid-Pacific Region's Lake Berryessa Resource Office did not adequately review and authorize building improvements to approximately 1,496 mobile homes and mobile home sites at Lake Berryessa for seven concessioners to ensure that degradation to the land and water resources did not occur. Although we were unable to determine the full extent of unauthorized improvements because of the lack of documentation, the responsible concession specialist said that about one-half of the 1,496 mobile home owners had made unauthorized improvements to their homes and sites over the last 40 years. During our site visit at the Lake, we found newly constructed improvements that BOR's concession specialist stated would not be allowed under its existing policy. These improvements included extended decks that hung over embankments, railings and stairways that extended onto the Lake's shoreline, and unauthorized concrete sea walls constructed by mobile home owners at the Putah Creek concession. In one instance, a newly constructed concrete wall was crumbling, leaving broken parts of concrete lying on the shoreline. At the Spanish Flat concession (see Figure 1), we found a large-scale infrastructure that had been constructed to allow mobile homes and decks to significantly extend over the shoreline embankments. In addition, stairways were constructed and attached to these decks that allowed home owners exclusive access to the Lake's shoreline.



*Figure 1. Mobile homes with decks and stairways at Lake Berryessa. (Office of Inspector General photograph)*

**Health and Safety Inspections.** We found that 14 of the 21 contracts had general provisions requiring concessioners to protect the visiting public from health and safety

hazards. In addition, 12 contracts authorized BOR to conduct annual inspections of the concessions operations and the facilities and grounds assigned to the concessioners. However, we found that these authorized inspections were not always conducted. For example, four of the six contracts at the Great Plains Region authorized annual inspections, but Regional personnel had conducted only one health and safety inspection since March 1994 (the Goose Bay Marina, located on Canyon Ferry Reservoir, had been inspected in March 1999 just prior to our visit). In addition, three of the seven contracts at Lake Berryessa authorized annual inspections, but the Mid-Pacific Region's Putah Resource Office had not conducted complete health and safety inspections at any of the concessions since October 1994. As such, health and safety deficiencies, such as a mobile home extending over an eroding embankment that we found during a visit to Lake Berryessa, were not detected (see Figure 2).<sup>2</sup>



*Figure 2. A mobile home extending over the embankment because of erosion at Lake Berryessa. (Office of Inspector General photograph)*

**Prices Charged for Goods and Services.** We found that 17 of the 21 contracts had general provisions requiring BOR approval of prices charged the public, but BOR personnel did not always review and approve these prices. For example, at the Great Plains Region, we found that four of the six contracts required BOR approval but that these approvals had not been obtained. At the Mid-Pacific Region's Lake Berryessa Resource Office, BOR personnel did not review and approve prices charged for food and merchandise for its seven concession contracts. Although the concession specialist told us that he had seen a 40 percent increase in the prices charged the public over the past 5 years, he said that these reviews were a low priority and therefore were not conducted because of insufficient resources.

---

<sup>2</sup>An annual inspection was not required for this concessioner.

We also found that the seven concessioners at Lake Berryessa charged the visiting public between \$8 and \$12 per automobile to enter the concession area. Based on our review of the contracts and related documents, we did not find any authority for charging such fees. Although BOR did not have documentation showing when the concessioners began to charge the fees, BOR personnel told us that the fees had been charged for more than 30 years. We estimated that current annual revenues from these entrance fees are approximately \$180,000.

## **Concession Priorities and Resources**

BOR has addressed concessions management in its strategic planning documents. For example, BOR's Strategic Plan for 1997-2002 states:

Reclamation recognizes the need for placing greater emphasis on protecting and enhancing the environment, particularly those resources dependent upon Reclamation's management of water and land resources. . . . By 2000, [BOR should] identify and prioritize recreation facilities directly managed by Reclamation which need to be improved to meet public health, safety, and accessibility standards [and] by 2002, rehabilitate 50 percent of [the] facilities identified as most critical.

In addition, BOR's Annual Performance Plans for fiscal years 1999 and 2000 generally restated the Plan's goals and added a requirement for fiscal year 2000 to prioritize 75 percent of the facilities identified as needing improvement. A BOR official indicated that BOR's area offices were identifying the recreation facilities which will require improvements to meet the health and safety and accessibility standards. However, as of October 1999, this identification process had not been completed.

BOR issued policies, directives, and standards for concessions management on April 3, 1998. Subsequently, the Commissioner stated that recreation was one of BOR's top 10 issues and formed a Recreation Policy Advisory Team to help resolve recreation issues. However, we found that while the policies, directives, and standards will assist BOR personnel in awarding more effective concession contracts and in managing concessioners' activities, BOR headquarters, regional, and area offices had not taken sufficient actions to improve management of existing concession operations and to ensure the protection of BOR's land and water resources and the public's health and safety. Although an Interagency Task Force and other sources such as audit reports, newspaper articles, and internal documents have notified BOR of the serious problems at its concessions, BOR has not taken effective actions to remedy the deficiencies. For example, we found that BOR officials had been aware of concession deficiencies at Lake Berryessa for at least 27 years. Specifically, a 1972 General Accounting Office report entitled "Public Recreational Facilities Not Adequately Developed at Lake Berryessa, California - A Bureau of Reclamation Project" (No. B174172) questioned the extensive development of mobile home parks by the concessioners at Lake Berryessa, including the improvements made to these home sites. However, during our current review, we found that the same conditions existed at Lake Berryessa 27 years later. We also found that mobile home owners were still making unauthorized improvements to their mobile homes and home sites and that these improvements had significantly degraded the Lake's shoreline. In addition, we noted that BOR had not assessed the full extent of the unauthorized improvements

so that a formal plan with definable goals and objectives could be developed to correct these deficiencies.

We also found that BOR had not allocated sufficient resources to concessions management or ensured that concessions management personnel were adequately trained. Specifically, BOR personnel assigned to oversee concessions operations generally were not assigned to work on concession issues on a full-time basis, had additional high priority work commitments, and were not trained as concession specialists but instead were outdoor recreational planners or natural resource specialists. For example, BOR did not employ any concession specialists at the Upper Colorado, Lower Colorado, and Great Plains Regions. At the Mid-Pacific Region, one concession specialist was responsible for overseeing seven major concessions at Lake Berryessa. However, the concession specialist did not have adequate training in the areas of developing concession contracts and overseeing the prices charged the public. The concession specialist at Lake Berryessa told us that he did not have time to complete all of his assigned duties. Based on our review, we believe that one concession specialist could not effectively address the numerous problems associated with the operations of the seven concessioners and the 1,496 mobile homes. In comparison, the National Park Service's Lake Mead National Recreational Area in Arizona and Nevada has five concession specialist positions to manage 11 major concessions with about 850 mobile homes. We believe that BOR officials should ensure that BOR personnel responsible for managing concessions operations are provided with sufficient resources and training to help them (1) plan for needed concessions, including planning and developing adequate concession contracts; (2) oversee the operation and maintenance of buildings and grounds assigned to the concessioner; (3) approve all building improvements made on Government land; and (4) oversee prices charged the public.

## **Impact on Concessions Operations**

As a result of inadequate concession contracts, ineffective management of concessions, and inadequate resources, long-standing health and safety deficiencies at the Canyon Ferry Reservoir and at Lake Berryessa have not been corrected and new deficiencies have occurred. At both Federally constructed lakes, we compared conditions identified in the 1994 inspection reports with current conditions. At the Canyon Ferry Reservoir, the Goose Bay Marina's 1994 inspection report cited numerous health and safety deficiencies, such as improper battery storage; inadequate fire protection; and decaying wooden decks, slips, and walkways. The March 3, 1999, inspection report, based on a health and safety inspection performed by the Great Plains Regional Industrial Hygienist for Goose Bay Marina, stated, "Overall, there are widespread problems with wiring, fire safety, slips/trips/falls [hazards], propane fuel [storage], housekeeping, grounds keeping, and hazardous waste [disposal]." The 1999 inspection report further stated that lumber, lead/acid batteries, equipment, debris, and trash were scattered throughout the property (see Figure 3). The report also cited deficiencies such as decaying and broken structural lumber on the concessioner's docks.



*Figure 3. Discarded batteries at the Canyon Ferry Reservoir. (Office of Inspector General photograph)*

At Lake Berryessa, we found, based on our review of BOR planning documents and other documents, that degradation of the land and water resources began in about 1960 and existed as of October 1999. Specifically, we noted numerous unauthorized mobile home improvements, such as concrete sea walls, retaining walls, and stairways, along the shoreline. In addition, at the Putah Creek concession, BOR documents indicated potential soil contamination from underground storage tanks and from the improper storage of 50 gallons of mixed paint, 50 gallons of used oil, and other chemicals. Further, we observed an improper trash site on Federal land (see Figure 4) that included 400 to 500 used tires (see Figure 5), a burnt fiberglass boat, piles of wood, and abandoned mobile homes. These items were on the hillsides near the sewage ponds.



*Figure 4. Wood, concrete, and other debris on a hillside at Lake Berryessa. (BOR photograph)*



*Figure 5. Tires discarded near Lake Berryessa. (BOR photograph)*

The most serious deficiency we noted was the discharge of effluent from the sewage ponds onto a hillside adjacent to Lake Berryessa. According to BOR documents, this discharge began in October 1996 and came to BOR's attention in a complaint filed with BOR about two sewage spills at the Putah Creek concession. According to BOR's documents, in July 1997, a mobile home owner stated that sewage-contaminated soil was untreated for weeks. The documents also showed that a mobile home owner near the sewer pump house said that concession employees caused an "unbearable stench" when they unplugged the large hose containing raw sewage from the sewer pump house, which allowed raw sewage to spill directly into Lake Berryessa. The documents further indicated that repeated spills had occurred over the past 2 years. While we did not find any studies addressing the degradation of water at Lake Berryessa, we noted that the Napa County Department of Environmental Management and the California Regional Water Quality Control Board had investigated these spills but that as of October 1999 had not determined whether this situation had been corrected. We noted that the Lake Berryessa Resource Office had attempted to terminate the contract with this concessioner because of these deficiencies but had not been successful.

### **Evaluation of Contract Provisions**

Based on a request from BOR officials, we evaluated BOR's 21 concession contracts to determine whether the provisions contained in these contracts met BOR's April 1998 policies, directives, and standards. Each of the 21 contracts was developed prior to the formal issuance of BOR's new guidelines. Although the guidelines addressed more than 20 contract provisions, we limited our discussion in this report to the 10 major contract provisions that we believe are the most significant for effective management of concessions operations. These 10 contract provisions relate to contractor default, building improvements, operation and maintenance plans, title to fixed assets, franchise fees, exclusive use, prices charged for services, a safety program, record keeping, and operations review and evaluation.

3

**Contractor Default.** Concession contracts are required by LND 04-01, 4.D(4) to include provisions that address contractor default, penalties, and termination. These provisions allow BOR to require a surety or performance bond, collect penalties and administrative costs for default and nonperformance, and terminate the contract. As previously discussed, we determined that all 21 contracts contained termination clauses but did not have contract provisions to require surety bonds and to collect penalties and administrative charges for concessioner nonperformance.

**Building Improvements.** All designs for construction are required by LND 04-01, 4.D(7), to be approved by BOR and to be in compliance with applicable environmental regulations and building code requirements, including those for accessibility and historical preservation. The directives also state that BOR may provide appropriate standards when no construction standards are available and that building permits when required must be obtained from local authorities by the concessioner prior to construction. According to a BOR official, the directives and standards allow BOR to ensure that all facilities are "harmonious" with the surrounding landscape; meet accessibility, environmental, and health requirements; and adequately protect BOR's land and water resources and the visiting public. We determined that all 21 contracts contained general provisions authorizing BOR to approve the design and construction of new concession facilities but that 19 of the provisions were not in compliance with the standard because they did not have specific contract requirements for accessibility and environmental compliance.

**Operation and Maintenance Plans.** Concession contracts are required by LND 04-01, 4.D(8), to contain provisions (1) stipulating that concessioners prepare an annual operation and maintenance plan that has to be approved by BOR and (2) specifying what the plan will contain. We found that none of the 21 contracts included provisions requiring operation and maintenance plans. While we found that certain provisions in the contracts did address operation and maintenance requirements, the discussions were vague, did not address all aspects of the concessioner's operation and maintenance requirements, and did not require the plans. For example, the Lower Colorado Region manages a concession on the Salton Sea in southern California. Section 12 of the concession contract states, "Grantee [concessioner] shall, at its own cost and expense, keep in a state of good repair all improvements located on the leased premises." This contract provision relating to maintenance requirements does not describe how and when each facility at this concession, such as restrooms, will be maintained, nor does it describe how and when Government lands assigned to the concessioner will be maintained.

**Title to Fixed Assets.** Concession contracts are required by LND 04-01, 4.D(10), to contain provisions stipulating that (1) the title to fixed assets, such as facilities placed on the Federal lands, be conveyed to the United States or the facilities will be removed as directed by the contract; (2) concessioners have a right to compensation for existing facilities which remain on Federal lands when the contract is sold, transferred, or expires; and (3) compensation for new facilities be based on actual costs less depreciation over the life of the contract. Although we found that 20 of the 21 contracts contained provisions addressing this requirement, we determined that provisions for 10 of the 21 contracts did not adequately address the disposition of title to improvements placed on Federal lands by a concessioner or specify the basis for compensation for these facilities.



**Franchise Fees.** BOR is required by LND 04-01, 4.D(13), to determine and recover fair compensation for the use, rights, and privileges granted under a concession contract. The request for proposal is to describe the methods used to determine fair compensation such as a graduated scale to determine total benefits. We determined that all 21 contracts contained general provisions requiring concessioners to pay a franchise fee to the Government but that the provisions for 3 of the 21 contracts did not require the franchise fee to be based on a percentage of gross receipts, which we believe when properly determined is "fair compensation." The franchise fees for these three contracts were based on a predetermined annual fixed amount, such as \$400 a year. To illustrate, an Upper Colorado Region concession contract that expires in June 2036 requires a \$400 annual franchise fee. Based on the concessioner's 1998 gross receipts, this fee is a return to the Government of 1/2 of 1 percent.

**Exclusive Use.**<sup>3</sup> Contract language is required by LND 04-01, 4.D(15), which ensures that new exclusive use will not occur and which stipulates that any existing exclusive use facility, service, or site be removed if the facility, service, or site is identified for removal in the request for proposal; is abandoned or not used for the purpose for which it was authorized; is condemned or identified as a public health or safety hazard; is destroyed by fire, flood, or other acts of nature; or is vandalized beyond reasonable repair. The directives and standards also require a provision that prohibits the replacement or relocation of an exclusive use facility, service, or site. Although we found that 9 of the 21 contracts contained provisions that addressed exclusive use, we determined that 19 of the 21 contracts did not contain provisions that prohibited the exclusive use of recreational sites or that required the removal of an existing exclusive use site in those circumstances identified in the directives.

**Prices Charged for Goods and Services.** Prices charged by concessioners for services, food, lodging, and merchandise are required by LND 04-01, 4.D(16), to be comparable to those prices charged by the private sector in similar situations. The directives and standards further state that approved rates will ensure a fair return to the concessioner and a reasonable cost to the public and that BOR will approve such rates or rate schedules on an annual basis. Although we found that 17 of the 21 contracts contained provisions that addressed this requirement, we determined that 16 of the 21 contracts were not in compliance with the standard, in that the contracts did not require BOR to approve the rates on an annual basis.

**Safety Program.** Concession contracts are required by LND 04-01, 4.D(17), to contain provisions that hold concessioners responsible for ensuring a safe and healthy environment by developing, implementing, and administering health, safety, and hazardous materials programs that are approved and periodically reviewed by BOR. Although 14 of the 21 contracts contained general provisions addressing the public's health and safety, we determined that 19 of the 21 contracts did not meet BOR's standard because they did not require the concessioner to implement a safety program.

**Record Keeping.** Concession contracts are required by LND 04-01, 4.D(19), to contain provisions that require concessioners to establish and maintain a system for record keeping

---

<sup>3</sup>Exclusive use is defined by LND 04-01, 2.C, as any use that excludes other appropriate public recreation use or users for extended periods of time, including concessioner-permitted sites on which dwellings or improvements are privately owned, such as a cabin, a trailer, or a mobile home.

that uses generally accepted accounting principles and an acceptable system of account classification codes. The standard also requires each concessioner to (1) complete and submit BOR's annual financial report forms, (2) have a financial review completed by an independent certified public accountant when a concessioner's annual gross revenues are more than \$250,000 but less than \$1,000,000, and (3) have a financial audit conducted by an independent certified public accountant when a concessioner's annual gross revenues exceed \$1,000,000. Although 20 of the 21 contracts contained general provisions addressing these record-keeping requirements, we determined that provisions for 12 of the 21 contracts did not require the concessioners to obtain a financial review or audit.

**Operations Review and Evaluation.** Concession contracts are required by LND 04-01, 4.D(23), to contain a provision requiring the local BOR office to conduct and document an evaluation of the concessioner's operations on an annual basis, prepare a performance rating for the concessioner, and send a copy of the completed annual review and rating to the regional office and the concessioner. The standard further states that in-depth reviews will be conducted and documented by an integrated team of specialists from BOR offices other than the local BOR office directly responsible for oversight of the concessions. In addition, the in-depth review will be conducted at least once for contracts with a term of 5 years or less, while the in-depth review will be conducted at least once every 5 years for contracts with a term of 5 years or more. Also, a copy of the review will be sent to the area and regional offices and the concessioner. We determined that provisions for 15 of the 21 contracts did not require complete evaluations of the concessions operations and facilities by the local office.

While we concluded that the BOR's newly adopted concession policies, directives, and standards will provide an adequate framework, when fully implemented, for managing its concession operations, we believe that detailed guidance and procedures should be completed to assist BOR employees in implementing the new policies, directives, and standards. In addition, a formal action plan should be completed to bring BOR's 21 concession contracts into compliance with this new guidance, and a review process should be established to ensure that new and reissued concession contracts are in compliance with the new policies, directives, and standards.

## **Recommendations**

We recommend that the Commissioner, BOR:

1. Establish and implement an oversight process to ensure that concessioners comply with existing contract provisions, especially in the areas of building improvements, annual inspections, and prices charged the public by the concessioners.

2. Complete and issue detailed guidance and procedures to fully implement the new policies, directives, and standards.

3. Develop a formal action plan to assess and correct the health and safety deficiencies and degradation of land and water resources within the concessioners' areas of operations at the Canyon Ferry Reservoir and Lake Berryessa.

4. Establish a review process to ensure that all new concessions and newly issued and reissued contracts are in compliance with BOR's policies, directives, and standards.

5. Develop a formal action plan to bring the 21 BOR-managed contracts into compliance with BOR's new policies, directives, and standards.

6. Obtain a Solicitor's opinion on whether the concessioners at Lake Berryessa have the legal authority to charge entrance fees for entering the concession area and whether the fees collected are due the Government. Based on the opinion, actions should be taken as appropriate.

### **BOR Response and Office of Inspector General Reply**

In the April 3, 2000, response (Appendix 4) to the draft report from BOR's Commissioner, BOR concurred with the report's six recommendations. Based on the response, we consider Recommendations 1, 2, 3, 4, and 6 resolved but not implemented and Recommendation 5 resolved and implemented. Accordingly, the unimplemented recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

Since the report's recommendations are considered resolved, no further response to the Office of Inspector General is required (see Appendix 5).

Section 5(a) of the Inspector General Act (5 U.S.C. app. 3) requires the Office of Inspector General to list this report in its semiannual report to the Congress. In addition, the Office of Inspector General provides audit reports to the Congress.

## SITES VISITED OR CONTACTED

Office	Location
<b>Mid-Pacific Regional Office</b>	Sacramento, California
Central California Area Office	Folsom, California
Lake Berryessa Resource Office	Lake Berryessa, California
Markley Cove, Concession	Lake Berryessa, California
Pleasure Cove, Concession	Lake Berryessa, California
Steele Park, Concession	Lake Berryessa, California
Spanish Flat, Concession	Lake Berryessa, California
Lake Berryessa Marina, Concession	Lake Berryessa, California
Rancho Monticello, Concession	Lake Berryessa, California
Putah Creek, Concession	Lake Berryessa, California
New Melones Branch Office*	Sonora, California
New Melones Lake Marina, Concession	New Melones Lake, California
<b>Pacific Northwest Regional Office*</b>	Boise, Idaho
Snake River Area Office (West)*	Boise, Idaho
<b>Great Plains Regional Office</b>	Billings, Montana
Montana Area Office	Billings, Montana
Canyon Ferry Field Office	Canyon Ferry Reservoir, Montana
Goose Bay Marina, Concession	Canyon Ferry Reservoir, Montana
Kim's Marina, Concession	Canyon Ferry Reservoir, Montana
Yacht Basin Marina, Concession	Canyon Ferry Reservoir, Montana
Beaverhead Marina, Concession	Clark Canyon Reservoir, Montana
Dakotas Area Office*	Bismarck, North Dakota
<b>Lower Colorado Regional Office</b>	Boulder City, Nevada
Lower Colorado Dams Facilities Office	Boulder City, Nevada
Lake Mead Ferry Service, Concession	Lake Mead, Nevada
<b>Upper Colorado Regional Office*</b>	Salt Lake City, Utah
Provo Area Office*	Provo, Utah

\* Contacted only.

# **OIG'S DETERMINATION OF WHETHER EXISTING CONCESSION CONTRACT PROVISIONS MET THE INTENT OF BOR'S NEW DIRECTIVES AND STANDARDS\***

BOR's Directives, Standards (LND 04-01)																					Yes	No
	Markley Cove	Pleasure Cove	Steele Park	Spanish Flat	Lake Berryessa	Rancho Monticello	Putah Creek	New Melones	Prineville Lake	Owyhee Resort	Black Canyon	Goose Bay Marina	Kim's Marina	Yatch Basin Marina	Beaverhead Marina	Tiber Marina	N. Shore at Lake Tschida	Lake Mead Ferry	North Shore Marina	Echo, Inc.	Aramark Leisure Services	
Default for Nonperformance (4.D(4))	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	
Building Improvements (4.D(7))	No	No	No	No	No	No	No	Yes	No	Yes	No	No	No	No	No	No	No	No	No	No	No	
Operation/Maintenance Plans (4.D(8))	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	
Title to Fixed Assets (4.D(10))	Yes	No	No	No	No	No	No	Yes	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	Yes	No	Yes	Yes	
Government Franchise Fees (4.D(13))	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	No	Yes	
Exclusive Use (4.D(15))	No	No	No	No	No	No	No	Yes	No	No	No	No	No	Yes	No	No	No	No	No	No	No	
Rates and Merchandise/Price Oversight (4.D(16))	No	No	No	No	No	No	No	Yes	Yes	No	Yes	No	Yes	No	No	No	No	No	No	Yes	No	
Safety Program (4.D(17))	No	No	No	No	No	No	No	Yes	No	No	No	No	No	No	No	Yes	No	No	No	No	No	
System of Record Keeping (4.D(19))	Yes	Yes	Yes	No	No	No	No	Yes	Yes	Yes	No	No	No	No	Yes	No	Yes	Yes	No	No	No	
Operations Review & Evaluation Inspections (4.D(23))	No	Yes	Yes	No	No	No	No	Yes	Yes	No	Yes	No	No	No	No	No	No	Yes	No	No	No	

\*"No" means that the contract either did not contain a provision or contained a provision that did not meet the intent of the new directives and standards.

## BUREAU OF RECLAMATION CONCESSION CONTRACTS

Name of Concession	Initial Contract Description and Term	Contract Expiration Date	Franchise Fee Rate	Long-Term Mobile Home Sites	Services Provided
<b>MID-PACIFIC REGION</b>					
Markley Cove	1981 agreement with 2 10-year extensions	May 2009	1.5 percent of gross receipts	50	Facilities for boat launching and docking, house boat and fishing boat rentals, food and fuel service, store, and day-use area.
Pleasure Cove	1985 agreement with 2 10-year extensions	May 2009	2.5 percent of gross receipts	225	Facilities for boat launching and docking, camping and RV sites, food and fuel service, store, and day-use area.
Steele Park	1989 agreement with 2 10-year extensions	May 2009	3 percent of gross receipts	152	Facilities for boat launching and docking, boat and room rentals, camping and RV sites, food and fuel service, store, and day-use area.
Spanish Flat	1959 agreement with 2 10-year extensions	July 2008	3 percent of gross receipts	187	Facilities for boat launching and docking, boat rentals, camping and RV sites, food and fuel service, store, and day-use area.
Lake Berryessa Marina	1959 agreement with 2 10-year extensions	August 2008	3 percent of gross receipts	170	Facilities for boat launching and docking, boat rentals, camping and RV sites, food and fuel service, store, and day-use area.
Rancho Monticello	1958 agreement with 2 10-year extensions	December 2008	3 percent of gross receipts	569	Facilities for boat launching, camping and RV sites, food and fuel service, store, and day-use area.
Putah Creek	1959 agreement with 2 10-year extensions	August 2008	3 percent of gross receipts	143	Facilities for boat launching and docking, boat and room rentals, camping and RV sites, food and fuel service, store, and day-use area.
New Melones Marina	1986 agreement	December 2012	4 percent of gross receipts, 2 cents/gallon of fuel sold, and \$1,000 annual fee	None	Facilities for boat launching and docking, house boat and fishing boat rentals, food and fuel service, store, and day-use area.

Name of Concession	Initial Contract Description and Term	Contract Expiration Date	Franchise Fee Rate	Long-Term Mobile Home Sites	Services Provided
--------------------	---------------------------------------	--------------------------	--------------------	-----------------------------	-------------------

### PACIFIC NORTHWEST REGION

Prineville Resort	1986 agreement	December 2005	3 percent of gross receipts	None	Facilities for boat launching and docking, RV and camping sites, room and boat rentals, food and fuel service, store, and day-use area.
Owyhee Resort	Oregon State Parks is temporarily managing concession	December 2001	3 percent of gross receipts	None	Facilities for boat launching and docking, RV and camping sites, food and fuel service, and day-use area.
Black Canyon	BOR is temporarily managing concession	November 1998	3 percent of gross receipts	None	Facilities for boat launching and docking, RV and camping sites, and day-use area.

### GREAT PLAINS REGION

Goose Bay Marina	1986 lease and permit with 1 5-year extension	December 2002	\$1,000/year flat fee or 2 percent of gross receipts	31	Facilities for boat launching and docking, food and fuel service, store, camping, and day-use area.
Kim's Marina	1994 agreement and permit	October 2003	\$1,000/year flat fee or 2 percent of gross receipts	12	Facilities for boat launching and docking, camping and RV sites, food and fuel service, store, and day-use area.
Yacht Basin Marina	1995 lease	December 2004	\$1,000/year flat fee or 2-4 percent of gross receipts	None	Facilities for boat launching and docking and store.
Beaverhead Marina	1997 lease	December 2001	\$1,000/year flat fee or 2-6 percent of gross receipts	None	Facilities for boat launching and docking, RV sites and camping, food and fuel service, store, and day-use area.
Tiber Marina	1997 lease	December 1999	\$300/year flat fee	None	Facilities for boat launching and docking, RV sites and camping, food and fuel service, store, and day-use area.
North Shore at Lake Tschida	1997 lease with 4 extensions	September 2001	\$900/year flat fee	None	Facilities for boat launching and docking, RV sites and camping, food and fuel service, store, and day-use area.

<b>Name of Concession</b>	<b>Initial Contract Description and Term</b>	<b>Contract Expiration Date</b>	<b>Franchise Fee Rate</b>	<b>Long-Term Mobile Home Sites</b>	<b>Services Provided</b>
-------------------------------	--	---	-------------------------------	--	--------------------------

### LOWER COLORADO REGION

Lake Mead Ferry Service	1995 Special Use Permit	September 2003	\$1 per visitor	None	Ferry service to Hoover Dam from Lake Mead.
North Shore Marina	1993 permit and agreement with 1-year extensions	August 2000	10 percent of gross receipts and \$1,470/ year flat fee	14	Facilities for boat launching and docking, RV sites and camping, store, and day-use area.

### UPPER COLORADO REGION

Echo Inc.	1986 agreement	May 2036 (50 years)	\$400/year flat fee	None	Facilities for boat launching and docking, RV sites and camping, store, fuel, and day-use area.
Aramark Leisure Services	1995 agreement	March 2000	5 percent of gross receipts	None	Transport river rafting equipment and the public through the Glen Canyon Power Plant Tunnel to a launch site on the Colorado River.





IN REPLY REFER TO:

D-5010

## United States Department of the Interior

BUREAU OF RECLAMATION  
Washington, D.C. 20240

APR 3 2001

### MEMORANDUM

To: Office of Inspector General  
Attention: Assistant Inspector General for Audits

From: Eluid L. Martinez  
Commissioner

Subject: Draft Audit Report on Concessions Managed by the Bureau of Reclamation  
(Assignment No. W-IN-BOR-003-98-R)

The Bureau of Reclamation offers the following comments in response to the recommendations in the subject report:

#### Recommendation 1

Establish and implement an oversight process to ensure that concessioners comply with existing contract provisions, especially in the areas of building improvements, annual inspections, and prices charged by the concessioners to the public.

#### Response

Concur. Reclamation will establish and implement an oversight process to ensure that concessioners comply with existing contract provisions, especially in the areas of building improvements, annual inspections, and prices charged by the concessioners to the public.

The responsible official is the Director, Operations. The target date for establishing and implementing an oversight process is October 31, 2001.

#### Recommendation 2

Complete and issue detailed guidance and procedures to fully implement the new policies, directives, and standards.

2

Response

Concur. Reclamation is in the process of preparing detailed guidance and procedures to implement the new concessions management policy and directives and standards. Reclamation will issue guidance and procedures as they are completed. However, it will take at least 18 months to finalize all products, conduct necessary Reclamation-wide reviews, obtain solicitor input when necessary, and obtain required approvals.

The responsible official is the Director, Office of Policy. The target date for completion and issuance of detailed guidance and procedures is October 31, 2001.

Recommendation 3

Develop a formal action plan to assess and correct the health and safety deficiencies and degradation of land and water resources within the concessioner's area of operations at the Canyon Ferry Reservoir and Lake Berryessa.

Response

Concur. Reclamation will develop a formal action plan to assess and correct the health and safety deficiencies and degradation of land and water resources within the concessioner's area of operations at Canyon Ferry Reservoir and Lake Berryessa.

The responsible official for developing an action plan for Canyon Ferry Reservoir is the Regional Director, Great Plains Region. The responsible official for developing an action plan for Lake Berryessa is the Regional Director, Mid-Pacific Region. The target date for completion of the combined action plan is November 30, 2000.

Recommendation 4

Establish a review process to ensure that all new concessions and newly issued and reissued contracts are in compliance with BOR's policies, directives, and standards.

Response

Concur. Reclamation will establish a review process to ensure that all new concessions and newly issued and reissued contracts are in compliance with Reclamation's policy and directives and standards.

The responsible official is the Director, Operations. The target date for establishment of a review process is April 30, 2001.

Recommendation 5

Develop a formal action plan to bring the 21 BOR-managed contracts into compliance with BOR's new policies, directives, and standards.

Response

Concur. Reclamation will have an opportunity to bring the 21 Reclamation-managed contracts into compliance with the new concessions management policy and directives and standards when each contract expires. In some cases, Reclamation may have the opportunity to modify a concession contract and bring it into compliance before the contract expires. However, Reclamation cannot unilaterally open an existing concession contract for modification or renegotiation before the contract expires. Prior to replacing or modifying a concession contract, the appropriate Regional Director will develop an action plan to bring the new or modified contract into compliance with Reclamation's concessions management policy and directives and standards.

The responsible official is the Regional Director responsible for issuing the concession contract.

Recommendation 6

Obtain a Solicitor opinion on whether the concessioners at Lake Berryessa have the legal authority to charge entrance fees for entering the concession area and whether the fees collected are due the Government. Based on the opinion, actions should be taken as appropriate.

Response

Concur. Reclamation will obtain a Solicitor's opinion on whether the concessioners at Lake Berryessa have the legal authority to charge entrance fees for entering the concession area and whether the fees collected are due the Government. Appropriate actions based on the Solicitor's opinion will be taken.

The responsible official is the Director, Mid-Pacific Region. The target date for requesting a Solicitor's opinion is May 31, 2000. The target date for taking actions based on the Solicitor's opinion is May 31, 2001.

cc: Assistant Secretary - Water and Science, Attention: Laura Brown

**STATUS OF AUDIT REPORT RECOMMENDATIONS**

<u>Finding/Recommendation Reference</u>	<u>Status</u>	<u>Action Required</u>
1, 2, 3, 4, and 6	Resolved; not implemented.	No further response to the Office of Inspector General is required. The recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.
5	Implemented.	No further action is required.